

AMENDMENT TO ORDINANCE #12

TOWER ORDINANCE

Prepared 04/21/2011

Please replace lines B and C of **Section V. Towers General** with the following two lines:

- B. Towers are permitted in Pleasant Valley, as conditional use, subject to the provisions of this Section.

- C. All towers shall be set back from all property lines a distance equal to one hundred and twenty five percent (125%) of the total height of the tower, measured from grade elevation, from all adjoining properties. Peripheral supports and guy anchors for communication towers may be located within the required setbacks, provided that they shall be located within the boundaries of the property on which the other is located and shall be located no closer than five (5) feet from any lot line.

Passed Planning Commission - April 5, 2011

Passed City Council - April 20, 2011

2nd Read Council - May 18, 2011

Signed by Barbara Metcalfe
Mayor

ATTEST:
Signed by Rebecca Teets
City Clerk

ORDINANCE NO. 12

TOWER ORDINANCE

Prepared by: Whitney, Bailey, Cox & Magnani

Prepared: 21 October 2001

I. PURPOSE.

The purpose of this Section is to ensure the citizens of Pleasant Valley have access to wireless technology under the provision of the Telecommunications Act of 1996. This Section is also intended to protect the citizens of the City from the proliferation of freestanding towers, which detract from the beauty of the City.

The goals of this ordinance are to:

- *Encourage the location of towers in nonresidential areas and minimize the total number of towers and tower sites throughout the community;*
- *Encourage co-location of new and existing tower sites;*
- *Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;*
- *Encourage users of towers and antennas in a way that minimizes the adverse visual impact of the towers and antennas; and*
- *To provide adequate site location opportunities for the provision of telecommunication services with minimal negative impact on the resources of the City.*

II. APPLICABILITY

- A. **District Height Limitations:** The requirements set forth in this ordinance shall govern the location of all new towers.
- B. **Amateur Radio Antennas:** This ordinance shall not govern any antenna, less than one hundred (100) feet, that is owned and operated exclusively by a federally licensed amateur radio station operator.
- C. **Amateur Radio Antennas:** This ordinance shall govern any antenna, one hundred (100) feet or greater in height, that is owned and operated by a federally licensed amateur radio station operator.
- D. **New Antenna** that locates on an existing tower.
- E. **Towers in existence** on the effective date of this ordinance are required to comply with this Section in the event they increase in height beyond the height of the existing tower as measured on the effective date of this ordinance. All towers above one hundred (100) feet in height in existence on the effective date of this ordinance are also required to comply with the landscaping requirements of this Section within eighteen (18) months of the effective date of this ordinance.
- F. **Temporary towers** are required to comply with this Section.
- G. **Mobile towers** are not required to comply with this section.

III. APPROVING BODY

For the purposes of this Section, the approving body is the City Council.

- A. Applications subject to City Council approval include the following:
1. A new tower;
 2. All towers in the City; and
 3. Extending the height of an existing tower greater than forty (40) feet above its existing height.
- B. The City Council will approve, within ten (10) business days from the date of receipt of the application, all administratively approved applications. No public hearings are required for administratively approved applications. Applicants subject to administrative approval include the following:
1. New antenna locating and co-locating on an existing tower or *alternative antenna support structures.*
 2. *New alternative antenna support structures in all zoning districts.*
 3. New antenna installed on a structure other than a tower; provided the antenna and

supporting electrical and mechanical equipment must be of a neutral color that is closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers that are extended in height up to forty (40) feet beyond existing height as measured on the effective date of this Ordinance.
5. New towers that are up to one hundred (100) feet in height.
6. Replacement of an existing tower to accommodate a co-location opportunity. Replacement tower must not exceed forty (40) feet greater than the existing tower. The replacement tower must be built on the same property within one hundred (100) feet of the existing tower. The existing tower must be removed after the replacement tower is constructed and service providers are on the air.

IV. DEFINITIONS

Alternative Antenna Support Structure: Man-made trees, clock towers, bell steeples, light poles, flag poles, signs, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any apparatus designed for telephonic, data, radio or television communications through the sending and/or receiving of electromagnetic waves.

Co-locate: To locate wireless communications equipment from more than one provider on a single site.

Co-location: The use of a tower or alternative antenna support structure by more than one telecommunications provider.

Communications Antenna: Any device used to collect or radiate electromagnetic waves, including directional antennae, microwave dishes and satellite dishes, and Omni-directional antennae.

Radio Frequency (RF) Propagation Map: A multicolored map depicting a visual representation of a proposed coverage area and signal strength within the proposed coverage area, regularly used by radio frequency engineers when designing a communications network.

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like.

Tower, Abandoned: Any tower not in service. A tower not in service may be characterized as not having any antennas (panel type and whip type), or any other device that looks like an antenna on the tower.

Tower, Guyed: Any tower using wire guys connecting above grade portions of a tower diagonally with the ground to provide support for tower and/or antennae.

Tower Height: Measured from the base on which the tower is mounted to the top of the tower or other structure, even if the highest point is an antenna or lightning rod, whichever is greater.

Tower, Lattice (Self-support): Structure which generally has three or four legs consisting of vertical, horizontal and diagonal cross strips or bars that is designed to support communication antenna arrays.

Tower, Mobile: Any tower capable of being transported in, or by, a motor vehicle. A mobile tower parked for more than twenty four (24) hours will be classified as a temporary tower.

Tower, Monopole: Structure which consists of a single freestanding pole designed to support communication antennae arrays., The Structure is anchored to a single concrete and steel foundation (caisson) embedded into the soil.

Tower, Temporary: Towers standing for sixty (60) consecutive days or less.

V. TOWERS, GENERAL

The provisions of this Section shall apply to all towers erected in the City after the effective date of this ordinance.

- A. The City council, upon request by the applicant, will provide a list of the information required for the submission of an application for approval of a new tower.
- B. Towers are permitted in Pleasant Valley subject to the provisions of this Ordinance.
- C. All lattice, monopole, and guyed towers cannot be sited closer than 300 feet to any existing habitable structure.
- D. Each applicant for a new tower shall provide, to the City Council, an inventory of its existing towers that are within a three (3) air mile radius of the proposed site.
- E. The owner shall maintain the tower in compliance with standards contained in applicable Federal and State regulations
- F. All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for three (3) or more tenants. As a condition of issuing a permit to construct or operate a tower in the City, the owner/operator of the tower is required to allow co-location until said tower has reached maximum structural capacity.
- G. All towers must meet or exceed current standards and regulations of the American National Standards Institute.
- H. All applications for new towers shall include:
 - 1. A map illustrating the location of the site for the proposed tower. The site shall be physically and visually marked in the field, for immediate identification, with any combination of survey irons or flags.
 - 2. Explanation from the applicant as to why the site was selected. No new tower shall be permitted unless the applicant submits evidence that demonstrates that no existing tower or structure can accommodate the applicant 's proposed antenna.
 - 3. A written commitment to the City Council from the owner/operator of the tower that the owner/operator shall allow co-locations on the tower where structurally and economically feasible.
 - 4. A visual analysis, which may include photo simulation or other techniques, which identifies the potential visual impacts of the proposed tower. Visual analysis of the tower shall be from at least two (2) directions. All costs for the visual analysis shall be borne by the applicant.
 - 5. Radio Frequency Propagation Maps.
 - 6. A NEPA (National Environmental Policy Act) Environmental Compliance Checklist prepared in accordance with Section 106 of NEPA; which shall be provided prior to the issuance of a permit.
 - 7. A copy of the State Historic Preservation Office (SHPO) review; which shall be provided prior to the issuance of a permit.
 - 8. Site plans.
 - a. A concept plan shall be submitted with the application showing the location and dimensions of all improvements in the project area, including information concerning (if required) rights-of-way and easements, topography, setbacks, ingress/egress, parking, fencing, landscaping, and adjacent zoning and uses. Concept plan approval by the City Council is required for applications requiring City Council approval. Concept plan approval by the Planning Commission is required for administratively approved applications.
 - b. As part of the concept plan review, screening, fencing, or anti-climbing security features may be required around the base of the tower and any shelters. If security fencing is required, it shall not be less than six (6) feet in height.
 - c. A site plan, sealed by a licensed professional engineer, shall be submitted prior to the issuance of a permit. This requirement applies to applications submitted for administrative approval (Planning Commission) and City Council approval. The sealed plan must show the location and dimensions of all improvements in the project area, including information concerning (if required) rights-of-way and easements, topography, setbacks, ingress/egress, parking, fencing, landscaping, and adjacent zoning and uses.

9. A surety bond, or irrevocable letter of credit, in the amount of \$25,000.00 to the City, prior to issuance of a permit by the City Council, to cover the costs of the removal of the tower. The applicant shall provide the City Council with a copy of a policy stating that the bonding agent must provide a thirty (30) day notification of cancellation to the Pleasant Valley City Council.
- I. Setbacks for towers and shelters shall meet the setback requirements in the underlying zoning district for accessory structures.
- J. Signs shall be provided per Federal Communications Commission (FCC) requirements.
- K. Towers should be sited within or adjacent to areas of mature vegetation. Towers should only be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.
- L. The following requirement shall govern the landscaping surrounding towers:
 1. Towers shall be landscaped within six (6) months after the tower is erected with a visual buffer of plant materials that effectively screens the view of the shelters from adjacent property. The standard visual buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing (if provided) enclosing the facilities. The visual buffer strip shall include trees eight (8) feet tall and ten (10) feet apart and a contiguous hedge three (3) feet deep capable of growing three (3) feet high within eighteen (18) months planted in front of the trees.
 2. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the City Council may determine the natural growth around the property perimeter may be a sufficient visual buffer without the need for additional landscaping or screening.
 3. Existing trees within 200 feet of the tower shall not be removed except as needed to construct towers, install ingress/egress and utilities, and to maintain the operation of the structure.
- M. The design and lighting requirements set forth in this Section shall govern the installation of all towers and antennas governed by this Ordinance.
 1. Towers, except alternative antenna support structures, shall maintain a galvanized steel finish subject to the standards of the Federal Aviation Administration (FAA).
 2. At a facility site the design of the shelters shall, to the extent possible, use materials, colors and textures that will blend the tower facilities to the natural setting and surrounding structures.
 3. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, lighting methods shall be used that would cause least disturbance to surrounding uses; provided the lighting meets FAA requirements.
 4. No advertising of any type may be placed on the tower, shelter or fence. Identification signs required by the FCC are exempt from this provision.
 5. Towers shall be designed to collapse within the lot lines or lease area in case of structural failure.
- N. Compliance with the Pleasant Valley Comprehensive Plan.

VI. ABANDONED TOWERS

- A. The tower shall be utilized continuously for communication services. In the event the tower ceases to be used for communication services for a period of twelve (12) consecutive months the special use permit will terminate. The applicant may be granted an extension up to six (6) months at the discretion of City Council.
- B. The tower owner shall remove all improvements above ground and to three (3) feet below grade within ninety (90) days after termination of a special use permit. The time period may be extended, as necessary, by the City Council.
- C. The City Council will monitor the towers for signs of abandonment.

VII. DAMAGED/DESTROYED TOWERS

- A. Any tower damaged/destroyed by vandalism, terrorism, faulty construction or design, wind, ice, snow, earthquake, fire or other act of nature or God, that was completely operational/functional at the time of the damage/destruction, must be repaired/replaced within twelve (12) months of damage/destruction. If the tower is not repaired/replaced within twelve (12) months the

requirements under "Abandoned Towers" will apply.

- B. If the tower is repaired/replaced within twelve (12) months of damage/destruction, no permits, applications, reviews or fees will be required as long as the tower is reconstructed to meet the requirements of this Section.

VIII. REPLACEMENT TOWERS

- A. Any tower can be replaced with a similar tower for reasons of structural integrity or advances that have been made in technology since the installation of the existing tower.
- B. Replacement towers must meet the requirements of this Section.
- C. Replacement towers must receive administrative approval and are subject to the fee schedule in this section.

IX. FEES

- A. Fees to be paid to the City Council (due at the time the application is submitted to the City Council) shall be \$500.00 for an application fee. This application fee applies to all new towers, replacement towers, extension of existing towers, alternative antenna support structures, antenna installed on a structure other than a tower, and co-locations on existing towers or alternative antenna support structures. The application fee is non-refundable.
- B. Prior to the issuance of a permit, a \$2,000.00 permit fee is required for all new towers, replacement towers, extension of existing towers and alternative antenna support structures.
- C. Each co-location on an existing or new tower or alternative antenna support structure requires no permit fee.
- D. Antennae installed on a structure other than a tower requires no permit fee.
- E. Temporary towers require a fifty (\$50.00) dollar application fee. The application fee is non-refundable. Permit fees are not required for temporary towers.
- F. Other than the application and permit fees listed in Subsections IX.A through IX.E above, no other fees, charges or permits shall be imposed by the City Council for the construction or installation of new towers or antennas.

X. WAIVER OF STATUTORY WAITING PERIOD

The City Council's denial of an application for the construction of a tower prior to the effective date of this Section shall not preclude the consideration or approval by the City Council within twelve (12) months of such denial of an application filed after the effective date of this Section to construct such tower.

XI. CONFLICTS WITH OTHER ORDINANCES

If any conflicts between this Ordinance and other laws and ordinances, or part thereof, arise the provisions of this Ordinance shall prevail.

Signed by Jack Bish
Mayor

ATTEST:
Signed by Mary E. Kramer
City Clerk